

AG asks Supreme Court to reconsider charter school ruling

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OLYMPIA, Wash. (AP) — As expected, Attorney General Bob Ferguson filed a motion Thursday asking the state Supreme Court to reconsider its ruling that Washington state's charter-school law is unconstitutional.

In a 6-3 ruling on Sept. 4, the Supreme Court said the privately operated, publicly funded charter schools created under a voter-approved initiative do not qualify as common schools under Washington's Constitution and thus cannot receive public funding.

"Given the significant impacts of this ruling on Washington students and their families, we are respectfully asking the Supreme Court to take another look at its decision," Ferguson said in a statement.

Initiative 1240 passed with 50.7 percent of the vote in 2012, making Washington the 42nd state to approve charter schools. The law allows up to 40 charter schools to open in the state within five years. The first opened last fall while eight more opened this school year.

The state teachers union and the League of Women Voters were among the groups that challenged the law. They argued charter schools were siphoning money that would otherwise go to traditional public schools. Washington is facing sanctions from the Supreme Court, in a separate case known as the McCleary lawsuit, for failing to adequately pay for those schools, which serve 1 million schoolchildren.

The state is specifically asking the high court to reverse its decision to set aside the entirety of the initiative, and if not that, to re-examine several aspects of the ruling. They say those aspects, including the court's rejection of the funding system for charter schools, call into question the legality of other existing public school programs.

Programs that help at-risk youth and those allowing students to earn college credits while in high school, for example, are funded in the same manner, according to the state.

"We are asking the Court to reconsider the language of the opinion to avoid any uncertainty," Ferguson said.

In her majority opinion, Chief Justice Barbara Madsen cited precedent from 1909 in ruling that charter schools are not common schools because they are controlled by a charter school board — not by local voters. She further rebuffed an argument from the state that the charter schools could be paid for from the general fund rather than money

specifically intended for public schools, because the state doesn't segregate the funds and thus doesn't have a way to ensure restricted money isn't spent on charter schools.

The court's opinion was set to take effect later this month, but will be put on hold until the court rules on the state's request for reconsideration. There is no timeline on when the court may rule on the request.

In a separate court filing Thursday, the state asks that the court delay the effective date of its ruling until the end of the school year if it denies the motion for reconsideration.

The chief executive of the charter schools association, an advocacy group for the schools, has said that all nine current charter schools have committed to remaining open for the year, even if that means relying on private donations. The schools are in Spokane, Tacoma, Kent, Highline and Seattle.